IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 7TH JUNE 2007 / 17TH JYAISHTA 1929

Crl.MC.No. 1824 of 2007()

---

LP.74/2004 of JUDL. MAGISTRATE OF FIRST CLASS, CHANGANACHERRY

.....

PETITIONER:

---

MATHEW JOSE, KANAKAMANGALAM HOUSE,
VELIYANADU, ALAPPUZHA.

BY ADV. SRI.M.P.MADHAVANKUTTY
SRI.GOKUL DAS V.V.H.

RESPONDENTS:

---

1. DOMINIC SOVIO T.J.,
THOPPIL HOUSE, INDUSTRIAL NAGAR P.O.,
CHANGANACHERRY.

2. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY P.P. SRI.GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 07/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R. BASANT, J.**

**----------**

**CRL.M.C.NO. 1824 OF 2007**

**----------**

Dated this the 7th day of June, 2007

**ORDER**

The petitioner faces indictment in a prosecution under Sec.138 of the Negotiable Instruments Act. It was filed as early as in 1998. It has been transferred to the list of Long Pending cases. The petitioner had pleaded not guilty. But he became not available for trial obliging the court to transfer the case to the list of Long Pending Cases.

2. According to the petitioner, he now wants to plead guilty. A warrant of arrest is pending. He wants to surrender before the learned Magistrate and make a prayer to permit him to plead guilty. He apprehends that his application for permission to plead guilty may not be considered favourably. He further apprehends that when he surrenders, he may be remanded to custody. He has yet another apprehension that if and when he pleads guilty after securing permission of the

learned Magistrate, sentence may be imposed on him without regard to the decision in **Anilkumar v. Shammy** (2002 (3) KLT 852). In these circumstances, he prays that appropriate directions may be issued.

3. I find no merit whatsoever in the apprehension of the petitioner. The petitioner can appear before the learned Magistrate and alternatively plead for recording his plea of guilty or to get him released on bail. Either request must be considered by the learned Magistrate in accordance with law, on merits and expeditiously. I have no reason to assume that the learned Magistrate, if at all he accepts the plea of guilty, will not impose a sentence in accordance with law or that the learned Magistrate would ignore the principles in **Anilkumar v. Shammy** (2002 (3) KLT 852). I am, in these circumstances, satisfied that no directions need be issued under Sec.482 of the Cr.P.C.

4. In the result, this petition is dismissed. I may hasten to observe that the petitioner shall be at liberty to appear before the learned Magistrate and pray for permission to plead guilty. The learned Magistrate shall consider the same and pass appropriate orders forthwith. In case, the learned Magistrate

does not accept the said request, the petitioner's application for bail must be considered on merits, in accordance with law and expeditiously - on the date of surrender itself.

5. Hand over a copy of this order to the learned counsel for the petitioner.

Sd/-

**(R. BASANT, JUDGE)**

**Nan/**

//true copy//

P.S. to Judge